

## **REMARKS**

Claims 1 – 4, 6 – 10, and 12 – 38 are in the application. Claims 1, 20, 32, and 33 are currently amended; claims 23, 27 – 29, and 34 – 38 are withdrawn from further consideration; claims 5 and 11 have been canceled; and claims 2 – 4, 6 – 10, 12 – 19, 21, 22, 24 – 26, and 30, and 31 remain unchanged from the original versions thereof. Claims 1, 32, and 33 are the independent claims herein.

No new matter has been added to the application as a result of the amendments submitted herewith. For example, claim 1 is amended to incorporate aspects of the previous claims 5 and 11, and claims 32 and 33 are amended similar to claim 1.

Reconsideration and further examination are respectfully requested.

### **Claim Rejections – 35 USC § 112**

Claim 20 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, claim 20 was rejected for depending from itself.

In reply thereto, claim 20 is currently amended to depend from claim 19. Applicant submits that claim 20 is not, at least now, indefinite under 35 USC 112, second paragraph.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claim 20 under 35 USC 112, second paragraph.

**Claim Rejections – 35 USC § 103**

Claims 1 – 14, 17 – 22, 24 – 26, and 30 – 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,680,305 to Apgar in view of Richard N. Clark's article SICs as a Definition of Economic Markets, published in The Journal of Business, Vol. 62, No. 1, Jan 1989, p. 17-31 (Clarke). This rejection is traversed.

Applicant notes that claim 1, representative of independent claims 1, 32, and 33, relates to a computer-implemented method for managing risk related to a construction industry including indicating in a computer system that an entity is a construction industry entity according to the entity's engagement in at least one of: design, building, manufacture, repair and maintenance, of one or more man made structures; gathering data into the computer system generally related to one or more construction industry entities; receiving data into the computer system descriptive of details of a financial transaction involving a construction industry entity, wherein the data received comprises identification data for at least one construction industry entity; structuring the gathered data and the data relating details of the financial transaction according to risk quotient criteria. The method further includes calculating a risk quotient by referencing the structured data, wherein calculating the risk quotient criteria comprises a value determined by the steps of: associating a numerical weight with each of a plurality of reputational risk variables; associating one or more of the reputational risk variables with the data descriptive of details of a financial transaction; determining a numerical value based upon the content of the data descriptive of details of a financial transaction associated with the one or more reputational risk variables; and multiplying the numerical value based upon the content times the numerical weight associated with each of the reputational risk variables associated with the data descriptive of details of a financial transaction; and generating a report comprising the risk quotient and at least some of the structured data referenced to calculate the risk quotient.

Applicant notes that the cited and relied upon Apgar discloses business entities being associated with standard industrial classification (SIC) codes. (Apgar, col. 6, ln. 26 – 32) Apgar further defines the business entities therein as,

The invention thus provides information to business entities in a dynamic and intelligent manner. It assumes that company decision-makers need information that links real estate to the business in a meaningful way. The invention further provides advantages in supporting business planning and management with real estate information delivered through hard copy reports, on-line service, computerized information transfers, telephone consultation, and in-person consultation in at least six Customer market segments referred to hereinafter as business entities: businesses, investors, property developers/managers, real estate-related intermediaries, government users, and all others. The invention provides clear, unbiased, and objective information on such business entities, thereby assisting Customers in making real estate decisions.

Without limitation, the preferred Customers of the invention include: (1) business users, made up of large, mid-size and small companies, which need information on rents, space utilization, and business/real estate measures; (2) investors, including banks, pension funds and insurance companies which provide the financing for most commercial real estate, and need information for tenant retention, demand forecasts and real estate affordability for tenants; (3) property developers/managers who need information for tenant retention, demand forecasts and affordability; (4) real estate intermediaries, including real estate brokers, appraisers, accountants, lawyers, architects and other real estate service providers, who need business/real estate measures and lease expiration profiles for their own customer development; and (5) government agencies and local governments that require user-based assessments similar to business users. (emphasis added) (See Apgar col. 3, ln. 44 – 67)

Thus, it is seen that Apgar does not disclose or suggest the claimed construction industry entity where the entity is engaged in at least one of: design, building, manufacture, repair and maintenance, of one or more man made structures (admitted in Office Action at page 4). Furthermore, it is clear that the *business entities* explicitly defined by Apgar specifically refers to “businesses, investors, property developers/managers, real estate-related intermediaries, government users”.

The Office Action further cites and relies upon Clarke for disclosing SIC codes used to identify an entity's engagement in various construction industry aspects, such

as construction. However, given the explicit and specific definition of business entities defined in Apgar, Applicant submits that the scope of the Apgar business entities is limited to the specific definition therein (i.e., “businesses, investors, property developers/managers, real estate-related intermediaries, government users “). The fact that other SIC codes are available or known does not change the fact that Apgar specifically limited the types of SIC codes that are associated with the business entities therein by specifically and explicitly defining the business entities. Accordingly, expanding the definition of the Apgar business entities to include construction industry entities is improper since such an expansion of Apgar goes against the plain meaning and teaching of Apgar.

Applicant also notes that Clarke pre-dates Apgar. Thus, it is submitted that the authors of Apgar knew of the SIC codes discussed in Clarke. Yet despite this fact, Apgar specifically defines business entities as not including the claimed “construction industry entity”.

Therefore, Applicant respectfully submits that the Office Action improperly combines the Apgar and Clarke references since, for example, the combination of the references as cited and relied upon by the Office Action is contrary to the plain meaning and teaching of the Apgar reference.

Applicant further submits that the cited and relied upon combination of Apgar and Clarke does not disclose or suggest the claimed aspect of “calculating a risk quotient by referencing the structured data, wherein calculating the risk quotient criteria comprises a value determined by the steps of: associating a numerical weight with each of a plurality of reputational risk variables”.

Accordingly, Applicant respectfully submits that the cited and relied upon combination of Apgar and Clarke does not disclose that which is claimed by Applicant. The combination of Apgar and Clarke therefore fails to render claims 1, 32, and 33 obvious.

Therefore, Applicant respectfully submits that claims 1, 32, and 33 are patentable over the cited and relied upon combination of Apgar and Clarke under 35 USC 103(a) for at least the reasons discussed above. Furthermore, claims 2 – 14, 17 – 22, 24 – 26, 30, and 31 depend from claim 1. Applicant respectfully submits that claims 2 – 14, 17 – 22, 24 – 26, 30, and 31 – 18 are patentable over the cited and relied upon combination of Apgar and Clarke for at least the reasons discussed above regarding claim 1. Accordingly, Applicant requests the reconsideration and withdrawal of the rejection of claims 1 – 14, 17 – 22, 24 – 26, and 30 – 33, and the allowance of same.

Claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar in view of Clarke and in further view of EPA Asbestos Ban: Clarification May 18, 1999, retrieved from <http://www.epa.gov/asbestos/pubs/asbbans2.pdf>, May 29, 2008 (EPA). This rejection is traversed.

Applicant respectfully submits that the cited and relied upon “EPA” does not correct the shortcomings and/or failings of Apgar and Clarke discussed hereinabove with respect to claim 1. Thus, Applicant respectfully submits that the combination of Apgar, Clarke, and “EPA” does not render claim 15 obvious. Accordingly, Applicant requests the reconsideration and withdrawal of the rejection of claim 15, and the allowance of same.

Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar in view of Clarke and in further view of The Federal Trade Commission’s article Fair Credit Reporting, March 1999, retrieved from [http://www.pueblo.gsa.gov/cic\\_text/money/fair-credit/fair-crd.htm](http://www.pueblo.gsa.gov/cic_text/money/fair-credit/fair-crd.htm), May 29, 2008 (FTC). This rejection is traversed.

Applicant respectfully submits that the cited and relied upon “FTC” does not correct the shortcomings and/or failings of Apgar and Clarke discussed hereinabove with respect to claim 1. Thus, Applicant respectfully submits that the combination of Apgar, Clarke, and “FTC” does not render claim 16 obvious. Accordingly, Applicant

requests the reconsideration and withdrawal of the rejection of claim 16, and the allowance of same.

## **C O N C L U S I O N**

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date

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